

30 SEP 2003



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Stricker Stricker & Stenby  
103 East Neck Road  
Huntington, NY 11743

In re Application of  
FRECH et al.  
Serial No.: 09/762,007  
PCT No.: PCT/DE00/01720  
Int. Filing Date: 26 May 2000  
Priority Date: 05 June 1999  
Attorney's Docket No.: 1441  
For: HAND-GUIDED JIG SAW MACHINE

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: DECISION ON PETITION  
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: UNDER 37 CFR 1.137(b)  
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This is a decision on applicant's 'Petition To Revive' an Application for Patent Abandoned Unintentionally under 37 CFR 1.137 (b) filed in the United States Patent and Trademark Office on 30 July 2003.

### **BACKGROUND**

On 26 May 2000, applicant filed international application No. PCT/DE00/01720 which claimed a priority date of 05 June 1999.

On 01 February 2001, prior to the twenty month deadline, applicant filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. §371 which was accompanied by authorization to charge his deposit account for the basic national fee.

On 05 March 2001, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b) and the surcharge for filing the oath or declaration after the twenty month period was required. On 15 March 2001, applicants filed a declaration executed by the joint inventors and by the heiress of deceased inventor, Manfred-Otto Staebler.

On 25 June 2001, a decision was mailed to applicants indicating that neither the declaration or cover letter filed on 15 March 2001 indicated that Monika Staebler (the person signing the declaration on behalf of the deceased inventor) was the sole heir of the deceased. Applicant was given a two month period within which to respond, with extensions of time available.

On 29 January 2003, a Notification of Abandonment was mailed to applicant indicating that the application was abandoned for failure to timely reply to the Decision on Petition mailed on 05 March 2001.

On 30 July 2003, applicant filed a petition to revive with the petition fee of \$1300, requesting the withdrawal of the abandonment of the application accompanied by a declaration executed by Monika Staebler, the sole heir of Manfred-Otto Staebler and the statement that Monika Staebler is sole heiress of the estate of the deceased Manfred-Otto Staebler.

### DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

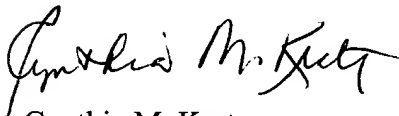
With respect to Items (2) and (3), applicant's statement that "the entire delay in filing the required reply from the due date until the filing of the petition was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office. The required petition fee of \$1300 will be charged to applicant's deposit account per his authorization.

With regard to Item (1), a review of the application file reveals that the proper reply has now been provided with a declaration executed by the heir of the deceased inventor and the statement that Monika Staebler is the sole heir of deceased inventor, Manfred-Otto Staebler. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

### CONCLUSION

The petition to revive under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing. The 35 U.S.C. 371 date is **30 July 2003**.



Cynthia M. Kratz  
Attorney Advisor  
PCT Legal Office

Telephone: (703) 306-5467